

PUBLICATION

Wind and Solar Projects Face Increased Oversight as Clean Energy Incentives Fade

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The U.S. Department of the Interior (DOI) issued a memorandum on July 15, 2025, announcing the end of what DOI refers to as "preferential treatment" for "unreliable, subsidy-dependent"¹ wind and solar energy projects involving federal lands, approval, or funding. Under the new directive, all agency-related decisions and actions related to wind and solar energy facilities – ranging from site lease approvals to environmental assessments and impact statements – must now undergo an elevated review by the Office of Secretary Doug Burgum. Coinciding with federal legislation and executive action rolling back clean energy tax credits, these changes significantly threaten project timelines, financing structures, and long term planning for developers.

The DOI's memo builds on two key federal actions earlier that month: President Trump's July 7th executive order directing the Treasury Department to strictly enforce the termination of the clean electricity production and investment tax credits under sections 45Y and 48E of the Internal Revenue Code, and the July 4th signing of the One Big Beautiful Bill Act (OBBBA), which rolled back a broad range of federal incentives for renewable energy. For companies involved in the development of wind and solar requiring federal permitting, consultation with federal agencies, federal funding, or federal lands, the new DOI policy significantly increases the complexity and potential duration of the federal approval process. Projects must now undergo additional layers of oversight, impacting permitting timelines, financing strategies, and eligibility for time-sensitive tax incentives.

New DOI Oversight Process

Effective immediately, the DOI's memorandum requires that "all decisions, actions, consultations, and other undertakings ... related to wind and solar energy facilities" must be submitted to the Office of the Executive Secretariat and Regulatory Affairs. From there, each action must undergo a three-tiered internal review – first by the Office of the Deputy Secretary, followed by a final review by the Office of the Secretary.

According to DOI, this expanded review process – introducing at least 68 new DOI decision points – is designed to ensure that all evaluations are "thorough and deliberative."² The types of project activities now subject to elevated oversight include:

- Leases
- Rights-of-way and easement authorizations
- Construction and operations plans
- Draft and final environmental assessments
- Draft, final, and supplemental environmental impact statements
- Scoping reports
- Access road authorizations
- Historic properties management plans
- Endangered and threatened species consultations

This added scrutiny is expected to lengthen the federal oversight process and increase regulatory uncertainty for renewable energy developers operating on utilizing federal permitting, federal monies, or federal land.

Changes to 45Y and 45E Tax Credits in the One Big Beautiful Bill Act

Signed into law by President Trump on July 4, 2025, the OBBBA curtails federal tax incentives for wind and solar energy. Among its most impactful provisions are statutory amendments to the Section 45Y Clean Electricity Production Tax Credit and Section 48E Clean Electricity Investment Tax Credit – both originally expanded under the Inflation Reduction Act (IRA). Under the OBBBA, the Section 45Y and Section 48E credits for wind and solar facilities will terminate for projects placed into service after December 31, 2027, with an exception for facilities that begin construction on or before the date that is 12 months following the date of the Act's enactment (July 4, 2026).

Prior to the rollback, these credits were technology-neutral tax credits subsidizing the production of clean electricity and investment in installing clean energy producing technology, such as solar panels and wind turbines. The IRA had extended them through at least 2032, or until U.S. power-sector emissions fell below certain thresholds. Under the OBBBA, however, the eligibility window for solar and wind projects is effectively narrowed by several years, increasing the urgency for developers to lock in construction timelines.

How the DOI Memo Affects Your Projects & What to Do Next

The recent DOI memorandum reshapes how wind and solar projects, requiring federal permitting or using federal funds or federal lands, are reviewed and approved. For developers, the implications are immediate and far-reaching – particularly given the time-sensitive nature of clean energy tax credits.

Eligibility for most tax incentives hinges on when construction begins. The OBBBA compresses the eligibility window, forcing developers to reassess and possibly accelerate project timelines to qualify. To mitigate regulatory and financial risks, companies developing wind and solar projects with these federal connections should work closely with legal counsel to conduct a comprehensive audit of all pending DOI milestones. This review should:

- Identify decision points subject to elevated approval under the new DOI guidelines;
- Assess timeline risks and feasibility in light of tax credit expiration schedules;
- Develop strategies for contingency planning and documentation.

Key Impacts of the DOI Memo and Strategic Considerations for Developers

1. Extended Timelines

Secretary Burgum's mandatory review threatens significant delays for wind and solar projects which were subject to administrative approvals with predictable timelines. Actions that once cleared quickly may now face weeks or months of added scrutiny. For example, the DOI memorandum itself does not identify the criteria or deadlines DOI will utilize for its three-tiered review. There will be concerns as to whether DOI can process such an enormous number of reviews without significant delay. These delays could jeopardize eligibility for tax incentives under the OBBBA's compressed timeline.

2. Increased Uncertainty

With political approval layered into technical evaluations, discerning exactly which activities trigger sign-off becomes less straightforward. Even minor on-site activities, such as access road grading or site preparation, may trigger elevated scrutiny. Developers should plan for this added complexity and build contingencies into project schedules and compliance strategies.

3. Need for Increased Documentation and Retention

To preserve tax credit eligibility, developers must ensure they carefully document construction start dates and placed-in-service milestones in accordance with IRS standards. This includes maintaining detailed records that demonstrate continuous construction activity.

4. Monitor Forthcoming Executive and Regulatory Actions

On July 7, 2025, President Trump issued Executive Order No. 14315, *Ending Market-Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources*. The order directs the Secretary of the Treasury to terminate the clean electricity production and investment tax credits – Sections 45Y and 48E of the Internal Revenue Code – effectively ending key federal incentives for wind and solar projects. This marks a significant shift in federal energy policy and signals the potential for further executive or regulatory actions impacting clean energy development. The order also requires the Treasury Department to issue new guidance within 45 days to enforce the termination, including limits on safe harbor provisions and stricter enforcement of "beginning of construction" rules. Stakeholders should closely monitor forthcoming rulemakings to inform long-term planning and compliance strategies.

5. Explore Unaffected Areas of Renewable Energy Sources

While the wind and solar sectors face new procedural hurdles, the OBBBA notably does not change the phaseout for other clean energy technologies. It maintains support for a fuels-based approach and other low-emission technologies. These include:

- Clean fuel
- Fuel cells
- Hydropower
- Geothermal technology
- Nuclear energy

Under the updated §45Y and §48E frameworks, these technologies remain eligible for clean electricity tax credits. Their continued support reflects a broader, fuels-based approach and underscores the importance of evaluating a diversified project portfolio.

How Baker Donelson Can Assist

Baker Donelson's Environmental Group is here to help your organization navigate the shifting regulatory landscape for wind and solar energy development. If you have questions about how the recent DOI memorandum or changes to Sections 45Y and 48E may affect your project timelines, tax credit eligibility, or permitting strategy, our team is ready to assist. Please reach out to a member of Baker Donelson's [Environmental Group](#) to discuss how we can support your organization's compliance efforts, risk mitigation planning, and long term energy development goals.

¹ This language appears in the DOI's press release, *Interior Ends Preferential Treatment for Unreliable, Subsidy-Dependent Wind and Solar Energy* (July 17, 2025), available at <https://www.blm.gov/press-release/interior-ends-preferential-treatment-unreliable-subsidy-dependent-wind-and-solar>.

² Again, this language appears in the DOI's press release.